

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

11 UNITED STATES OF AMERICA,	)	3:11-cr-00013-HDM-VPC
	)	3:16-cv-00342-HDM
12 Plaintiff,	)	
	)	
13 vs.	)	ORDER
	)	
14 RYAN ROSS MCKENDRY-VERHUNCE,	)	
	)	
15 Defendant.	)	
_____	)	

16 On January 4, 2017, the court denied the defendant's motion to  
 17 vacate, set aside, or correct sentence pursuant to 28 U.S.C. §  
 18 2255. (ECF Nos. 64 & 65). The court now considers whether to  
 19 grant defendant a certificate of appealability for any appeal of  
 20 its order.

21 The standard for issuance of a certificate of appealability  
 22 calls for a "substantial showing of the denial of a constitutional  
 23 right." 28 U.S.C. § 2253(c). The Supreme Court has interpreted 28  
 24 U.S.C. § 2253(c) as follows: "Where a district court has rejected  
 25 the constitutional claims on the merits, the showing required to  
 26 satisfy § 2253(c) is straightforward: The defendant must  
 27 demonstrate that reasonable jurists would find the district court's  
 28

1 assessment of the constitutional claims debatable or wrong." *Slack*  
2 *v. McDaniel*, 529 U.S. 473, 484 (2000); see also *James v. Giles*, 221  
3 F.3d 1074, 1077-79 (9th Cir. 2000). The Supreme Court further  
4 illuminated the standard for issuance of a certificate of  
5 appealability in *Miller-El v. Cockrell*, 537 U.S. 322 (2003). The  
6 Court stated in that case:

7 We do not require petitioner to prove, before the  
8 issuance of a COA, that some jurists would grant the  
9 petition for habeas corpus. Indeed, a claim can be  
10 debatable even though every jurist of reason might  
11 agree, after the COA has been granted and the case  
12 has received full consideration, that petitioner  
13 will not prevail. As we stated in *Slack*, "[w]here a  
district court has rejected the constitutional  
claims on the merits, the showing required to  
satisfy § 2253(c) is straightforward: The petitioner  
must demonstrate that reasonable jurists would find  
the district court's assessment of the  
constitutional claims debatable or wrong."

14 *Miller-El*, 123 S.Ct. at 1040 (quoting *Slack*, 529 U.S. at 484).

15 The court has considered the issues raised by defendant, with  
16 respect to whether they satisfy the standard for issuance of a  
17 certificate of appeal, and determines that none meet that standard.  
18 The court therefore denies a certificate of appealability with  
19 respect to any appeal of the court's denial of defendant's 28  
20 U.S.C. § 2255 motion.

21 IT IS SO ORDERED.

22 DATED: This 6th day of January, 2017.

23  
24 

25 UNITED STATES DISTRICT JUDGE